IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.13857 of 1997

Dated: 18-01-2007

Between:

Chalamalasetty Babu Rao, S/o C. Bheemaiah,
Hindu, aged about 52 years,
Agriculture, r/o Movvapalem,
Movva Mandal, Krishna District.

... Petitioner

and

1. The President,
   Movvapalem Gram Panchayat,
   Movva Mandal, Krishna District and another.

... Respondents

ORDER:

This petition is filed seeking mandamus declaring the action of the respondents in proposing to acquire the land of petitioner in R.S.Nos.638/14 and 710/2 without following the procedure as highly arbitrary and illegal.

2. In the affidavit filed in support of the writ petition, it is stated that petitioner's father purchased an extent of 145 ½ square yards in R.S.No.710/2 under registered sale deed, dated 06-05-1952 and thereafter petitioner and his brother purchased adjacent site in an extent of 153.14 sq. yards in R.S.No.638/14 from one Pushpavatamma. According to petitioner, his father gifted an extent of 192 square yards of land to the Gram Panchyat for the benefit of the public and thereafter himself and his brother divided the remaining property by virtue of a partition deed, dated 24-04-1965 and in the said partition the lands covered by R.S.No.638/14 and 710/2 fell to his share.

3. The grievance of the petitioner is that the respondents are trying to acquire the said land to widen the road by demolishing the structures through Janmabhoomi Programme, without following the procedure prescribed under law and the same is violative of Article 300A of the Constitution of India.

4. Heard learned counsel for the parties.

5. This Court while admitting the writ petition, passed an interim direction on 01-08-1992 in W.P.M.P.No.16690 of 1997, directing the respondents not to dispossess the petitioner from the land in question without following the due procedure. Despite the fact that the writ petition is filed, as early as in the year 1997, the respondents have not chosen to file any counter affidavit.

6. Acquisition of any land by the authorities is permissible, provided it is for a public purpose, but such acquisition cannot be done without issuing notice to the affected parties or following the procedure

prescribed under the provisions of the Land Acquisition Act, 1894 (for short, 'the Act'). As no counter affidavit is filed controverting the allegations made in the affidavit filed in support of the writ petition, it is construed that the contentions put forth by the petitioner are correct. Further, when the petitioner is the absolute owner of the lands in question, even if the said lands are required for the purpose of widening the roads, it is incumbent on the part of the respondents to follow the procedure prescribed under the Act. In that view of the matter there shall be a direction to the respondents not to evict the petitioner from the petition lands without following due process of law.

7. Subject to the above directions, the writ petition is disposed of. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.18-01-2007
GLV